
SENATE BILL 6061

State of Washington

62nd Legislature

2012 Regular Session

By Senators Pflug and Murray

Read first time 01/11/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to changing the nonresident sales tax exemption
2 into a refund program; amending RCW 82.08.0273; and providing an
3 effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.08.0273 and 2011 c 7 s 1 are each amended to read
6 as follows:

7 (1) (~~The tax levied by RCW 82.08.020 does not apply to~~) Subject
8 to the conditions and limitations in this section, an exemption from
9 the tax levied by RCW 82.08.020 in the form of a remittance from the
10 department is provided for sales to nonresidents of this state of
11 tangible personal property, digital goods, and digital codes, when:

12 (a) The property is for use outside this state;

13 (b) The purchaser is a bona fide resident of a province or
14 territory of Canada or a state, territory, or possession of the United
15 States, other than the state of Washington; and

16 (i) Such state, possession, territory, or province does not impose,
17 or have imposed on its behalf, a generally applicable retail sales tax,
18 use tax, value added tax, gross receipts tax on retailing activities,
19 or similar generally applicable tax, of three percent or more; or

1 (ii) If imposing a tax described in (b)(i) of this subsection,
2 provides an exemption for sales to Washington residents by reason of
3 their residence; and

4 (c) The purchaser agrees, when requested, to grant the department
5 of revenue access to such records and other forms of verification at
6 his or her place of residence to assure that such purchases are not
7 first used substantially in the state of Washington.

8 (2) Notwithstanding anything to the contrary in this chapter, if
9 parts or other tangible personal property are installed by the seller
10 during the course of repairing, cleaning, altering, or improving motor
11 vehicles, trailers, or campers and the seller makes a separate charge
12 for the tangible personal property, the tax levied by RCW 82.08.020
13 does not apply to the separately stated charge to a nonresident
14 purchaser for the tangible personal property but only if the separately
15 stated charge does not exceed either the seller's current publicly
16 stated retail price for the tangible personal property or, if no
17 publicly stated retail price is available, the seller's cost for the
18 tangible personal property. However, the exemption provided by this
19 section does not apply if tangible personal property is installed by
20 the seller during the course of repairing, cleaning, altering, or
21 improving motor vehicles, trailers, or campers and the seller makes a
22 single nonitemized charge for providing the tangible personal property
23 and service. All of the ~~((requirements))~~ provisions in subsections (1)
24 and (3) through ~~((+6))~~ (8) of this section apply to this subsection.

25 (3)(a) Any person claiming exemption from retail sales tax under
26 the provisions of this section must ~~((display proof of his or her
27 current nonresident status as provided in this section))~~ pay the state
28 and local sales tax to the seller at the time of purchase and then
29 request a remittance of the state sales tax from the department in
30 accordance with this subsection and subsection (4) of this section. A
31 request for remittance must include proof of his or her status as a
32 nonresident at the time of the purchase for which a remittance is
33 requested. The request for a remittance must also include any
34 additional information and documentation as required by the department,
35 which may include a description of the item purchased for which a
36 remittance is requested, the sales price of the item, the amount of
37 state and local sales tax paid on the item, the date of the purchase,

1 the name of the seller and the physical address where the sale took
2 place, and copies of sales receipts or other documents of sale showing
3 the qualified purchases.

4 (b) Acceptable proof of a nonresident person's status includes one
5 piece of identification such as a valid driver's license from the
6 jurisdiction in which the out-of-state residency is claimed or a valid
7 identification card which has a photograph of the holder and is issued
8 by the out-of-state jurisdiction. Identification under this subsection
9 (3)(b) must show the holder's residential address and have as one of
10 its legal purposes the establishment of residency in that out-of-state
11 jurisdiction.

12 ~~((c) In lieu of furnishing proof of a person's nonresident status~~
13 ~~under (b) of this subsection (3), a person claiming exemption from~~
14 ~~retail sales tax under the provisions of this section may provide the~~
15 ~~seller with an exemption certificate in compliance with subsection~~
16 ~~(4)(b) of this section.~~

17 ~~(4)(a) Nothing in this section requires the vendor to make tax~~
18 ~~exempt retail sales to nonresidents. A vendor may choose to make sales~~
19 ~~to nonresidents, collect the sales tax, and remit the amount of sales~~
20 ~~tax collected to the state as otherwise provided by law. If the vendor~~
21 ~~chooses to make a sale to a nonresident without collecting the sales~~
22 ~~tax, the vendor must examine the purchaser's proof of nonresidence,~~
23 ~~determine whether the proof is acceptable under subsection (3)(b) of~~
24 ~~this section, and maintain records for each nontaxable sale which shall~~
25 ~~show the type of proof accepted, including any identification numbers~~
26 ~~where appropriate, and the expiration date, if any.~~

27 ~~(b) In lieu of using the method provided in (a) of this subsection~~
28 ~~to document an exempt sale to a nonresident, a seller may accept from~~
29 ~~the purchaser a properly completed uniform exemption certificate~~
30 ~~approved by the streamlined sales and use tax agreement governing board~~
31 ~~or any other exemption certificate as may be authorized by the~~
32 ~~department and properly completed by the purchaser. A nonresident~~
33 ~~purchaser who uses an exemption certificate authorized in this~~
34 ~~subsection (4)(b) must include the purchaser's driver's license number~~
35 ~~or other state-issued identification number and the state of issuance.~~

36 ~~(c) In lieu of using the methods provided in (a) and (b) of this~~
37 ~~subsection to document an exempt sale to a nonresident, a seller may~~
38 ~~capture the relevant data elements as allowed under the streamlined~~

1 ~~sales and use tax agreement.))~~ (4)(a)(i) Beginning January 1, 2013,
2 through December 31, 2013, a person may request a remittance from the
3 department for state sales taxes paid by the person on qualified retail
4 purchases made in Washington between July 1, 2012, and December 31,
5 2012.

6 (ii) Beginning January 1, 2014, a person may request a remittance
7 from the department during any calendar year for state sales taxes paid
8 by the person on qualified retail purchases made in Washington during
9 the immediately preceding calendar year only. No application may be
10 made with respect to purchases made before the immediately preceding
11 calendar year.

12 (b) The remittance request, including proof of nonresident status
13 and any other documentation and information required by the department,
14 must be made using an electronic application process as prescribed by
15 the department. Only one remittance request may be made by a person
16 per calendar year.

17 (c) The total amount of a remittance request must be at least
18 twenty-five dollars. The department must deny any request for a
19 remittance that is less than twenty-five dollars.

20 (d) The department must examine the applicant's proof of
21 nonresident status and any other documentation and information as
22 required in the application to determine whether the applicant is
23 entitled to a remittance under this section.

24 (5)(a) Any person making fraudulent statements to the department,
25 which includes the offer of fraudulent (~~identification or fraudulently~~
26 ~~procured identification to a vendor, in order to purchase goods without~~
27 ~~paying)) or fraudulently procured identification or fraudulent sales
28 receipts or other documents of sale, in order to receive a remittance
29 of retail sales tax, is guilty of perjury under chapter 9A.72 RCW.~~

30 (b) Any person (~~making tax exempt purchases under this section by~~
31 ~~displaying)) requesting a remittance of sales tax from the department
32 by providing proof of identification or documents of sale that are not
33 his or her own, or counterfeit identification or documents of sale,
34 with intent to violate the provisions of this section, is guilty of a
35 misdemeanor and, in addition, is liable for the tax and subject to a
36 penalty equal to the greater of one hundred dollars or the tax due on
37 such purchases and is ineligible to receive any further remittances
38 from the department under this section.~~

1 ~~(6)((a) Any vendor who makes sales without collecting the tax and~~
2 ~~who fails to maintain records of sales to nonresidents as provided in~~
3 ~~this section is personally liable for the amount of tax due.~~

4 ~~(b) Any vendor who makes sales without collecting the retail sales~~
5 ~~tax under this section and who has actual knowledge that the~~
6 ~~purchaser's proof of identification establishing out-of-state residency~~
7 ~~is fraudulent is guilty of a misdemeanor and, in addition, is liable~~
8 ~~for the tax and subject to a penalty equal to the greater of one~~
9 ~~thousand dollars or the tax due on such sales. In addition, both the~~
10 ~~purchaser and the vendor are liable for any penalties and interest~~
11 ~~assessable under chapter 82.32 RCW)) The exemption provided by this~~
12 ~~section is for the state sales tax but not the local sales taxes. For~~
13 ~~purposes of this section, "local sales tax" means a sales tax imposed~~
14 ~~by a local government under the authority of RCW 81.104.170, chapter~~
15 ~~82.14 RCW, or other provision of law, and which is imposed on the same~~
16 ~~taxable event as the state sales tax imposed in this chapter.~~

17 (7) A nonresident who receives a refund of sales tax from the
18 seller for any reason with respect to a purchase made in this state is
19 not entitled to a remittance for the tax paid on the purchase. A
20 person who receives both a remittance under this section and a refund
21 from the seller with respect to the same purchase must immediately
22 repay the remittance to the department. Interest as provided in
23 chapter 82.32 RCW is assessed on amounts due under this section. A
24 person who receives a remittance with respect to a purchase for which
25 the person had, at the time the person submitted the application for a
26 remittance, already received a refund of sales tax from the seller is
27 also liable for the evasion penalty in RCW 82.32.090(7) and is
28 ineligible to receive any further remittances from the department under
29 this section.

30 (8) Remittances paid under this section do not include interest.

31 NEW SECTION. Sec. 2. This act takes effect July 1, 2012.

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